

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AARON D. SMALLS,

Plaintiff,

-against-

MD AMY COOPER; MD DANIEL  
MUNDY; J. SVETKEY; ADA CHARLOTTE  
AMOUR,

Defendants.

22-CV-4509 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently detained at the North Infirmary Command on Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his rights during his ongoing state court criminal proceedings. For the following reasons, the complaint is dismissed.

Plaintiff has previously submitted to this court a substantially similar complaint against Defendants Doctors Amy Cooper and Daniel Mundy, who are forensic psychiatrists, and Assistant District Attorney Charlotte Amour, asserting the same claims.<sup>1</sup> That case is pending before the Court under docket number 22-CV-4115. Because this complaint raises the same claims, no useful purpose would be served by the filing and litigation of this duplicate lawsuit.<sup>2</sup>

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<sup>1</sup> Plaintiff also names as a defendant the presiding judge in his case, “J. Svetkey.” If Plaintiff seeks to add new or different claims or parties arising from these facts, he must do so in the case under docket number 22-CV-4115. The Court notes, however, that judges are absolutely immune from suit for damages for any actions taken within the scope of their judicial responsibilities. *Mireles v. Waco*, 502 U.S. 9, 11 (1991).

<sup>2</sup> Plaintiff attaches to both complaints his psychiatric reports. In the 22-CV-4115 case, the Court will consider whether appointment of a guardian *ad litem* is warranted.

Therefore, this complaint is dismissed without prejudice to Plaintiff's pending case under docket number 22-CV-4115.

In light of the Court's belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

### CONCLUSOIN

The Court dismisses Plaintiff's complaint without prejudice, as duplicative of 22-CV-4115.

The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: June 13, 2022  
New York, New York

/s/ Laura Taylor Swain  
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LAURA TAYLOR SWAIN  
Chief United States District Judge